



THE IG AT THE NRC

Office of the Inspector General

1998

U.S. Nuclear Regulatory Commission

FOREWORD

Since my appointment as Inspector General for the U.S. Nuclear Regulatory Commission (NRC) in July 1996, I have made training a top priority for the Office of the Inspector General (OIG). Recognizing the benefits resulting from proactive education, this office has provided guidance to employees on fraud, waste, and abuse issues and traveled to the regions to address employee concerns and questions.

This third edition of *The IG at the NRC* is an important part of our ongoing efforts to assist employees in avoiding vulnerability to fraud and to optimize agency effectiveness and efficiency.

This pamphlet contains current information about the OIG organization and its policies and procedures. In addition to describing the OIG mission and functions, I have used this opportunity to discuss policy direction and initiatives intended to foster an atmosphere of trust and openness between the OIG and NRC employees.

The OIG is committed to combating fraud and abuse. My goal is for our educational efforts through pamphlets such as this, to increase your understanding of the OIG commitment so that, within our differing roles, we can effect a spirit of cooperation to achieve our shared objective of regulatory excellence.

Hubert T. Bell
Inspector General

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1 OIG MISSION AND ORGANIZATION

1.1 Mission

Statutory Basis

The Nuclear Regulatory Commission's (NRC's) Office of Inspector General (OIG) was established as a statutory entity on April 15, 1989, in accordance with the 1988 amendments to the Inspector General Act of 1978. Under the statute, NRC's Inspector General (IG) singularly reports to and serves under the general supervision of the NRC Chairman, but operates with independent personnel, and contracting and budget authority.

Responsibilities

The statutory language of the IG Act states that the purpose of offices of Inspector General is to provide independent and objective units to conduct and supervise audits and investigations relating to agency programs and operations. Under the statute, the OIG is also directed to provide leadership and coordination and to recommend policies to prevent and detect fraud and abuse in agency programs and operations.

To accomplish these objectives, the OIG establishes policy for audits and investigations relating to all NRC programs and operations and conducts, supervises, and coordinates these audits and investigations. Further, the OIG reviews existing and proposed regulations to evaluate their effect on economy and efficiency in the agency and on the prevention of fraud and abuse and recommends changes as appropriate.

The IG informs the Chairman and the Congress of fraud or any serious problems with the administration of NRC programs and operations discovered during these audits, investigations, and reviews. The OIG recommends corrective action and reports on progress made in the implementation of actions. The OIG refers criminal cases to the Department of Justice (DOJ) for prosecution and coordinates referral of administrative matters to managers for administrative action by the agency.

1.2 Oversight

PCIE

Established in 1981 by Executive Order 12301, the President's Council on Integrity and Efficiency (PCIE) is an interagency council headed by the Deputy Director for Management of the Office of Management and Budget (OMB) and is charged with promoting integrity and effectiveness in Federal programs. Composed of presidentially appointed and Senate-confirmed

IGs, the membership of the PCIE was expanded in 1992 by Executive Order 12805 to include the Executive Council on Integrity and Efficiency (ECIE). PCIE oversight responsibility includes development of policies to support professionalism in Federal OIGs. As part of that oversight, PCIE has also served to receive allegations against IGs and their staffs.

Allegations Against Inspectors General/Senior Staff

Consistent with Executive Order 12993 (March 21, 1996), allegations of wrongdoing received in regard to the Inspector General, Deputy Inspector General, and senior staff will be referred to the Integrity Committee of the President's Council on Integrity and Efficiency for its review and adjudication.

Allegations made against OIG staff will likewise be referred to the PCIE's Integrity Committee if, among other reasons, the staff member is alleged to have acted with the knowledge of the IG; or the allegation against the staff person is related to an allegation against the IG. In addition, allegations of staff wrongdoing will, on a case-by-case basis, be referred to the Integrity Committee when (1) review of the substance of the allegation cannot be assigned to an agency of the Executive Branch with appropriate jurisdiction over the matter and (2) the IG determines that an objective internal investigation of the allegation, or the appearance thereof, is not feasible.

1.3 Organization

The Inspector General

The IG Act states that the head of each OIG shall be an IG appointed by the President with the advice and consent of the Senate. IGs are selected on the basis of their backgrounds in investigations or auditing or from related backgrounds, such as law or public administration.

To ensure the independence of the office, the IG may be removed only by the President, who must communicate the reasons for a removal to the Congress. The IG is selected without regard for political affiliation.

By statute, the IG oversees and is responsible for--

- audits and investigations;

- reviews of existing and proposed legislation and regulations for their potential to prevent and detect fraud, waste, and abuse;

establishing and implementing policies to conduct, supervise, and coordinate activities that promote economy and efficiency and that prevent or detect fraud, waste, and abuse; and

designating an Assistant Inspector General for Investigations and an Assistant Inspector General for Audits.

The Deputy Inspector General

Oversees the conduct and supervision of audits and investigations relating to agency programs and operations;

Manages all administrative and planning activities necessary to support the programmatic mission of the OIG.

The Assistant Inspector General for Investigations

Supervises the performance of investigative activities and inquiries relating to NRC programs and operations; and

Advises and assists the IG on all investigations and inquiries conducted by the OIG.

The Assistant Inspector General for Audits

Supervises the performance of auditing activities relating to NRC programs and operations; and

Advises and assists the IG on all audits and evaluations conducted by the OIG.

Team Leader, Resource Management and Operational Support

Provides overall management of administrative and operational support for OIG programs, including responsibility for preparing and administering the budget, operating an independent personnel program, and contracting and small purchase matters.

Prepares the OIG Semiannual Report for Congress.

The Legal Counsel

Provides independent legal counsel and representation for the IG and OIG;

Advises and assists the IG on all legal issues and serves as legal advisor to the OIG staff;
and

Coordinates and drafts regulatory commentary.

2 OIG INVESTIGATIONS

2.1 What Is an OIG Investigation?

An OIG investigation is a planned, systematic search for relevant, objective evidence derived from individuals, documents, tangible objects, and data.

In addition to documentation of evidence discovered, an investigation typically includes identifying the basis for the original complaint, the issues involved, and citation of relevant statutes.

2.2 What Does the OIG Investigate?

The jurisdiction of the OIG extends to all matters relating to fraud, waste, and abuse by NRC employees, contractors, and other recipients of funds under or relating to NRC programs and operations. OIG investigations focus on violations of law or misconduct by NRC employees and contractors as well as allegations of irregularities or abuse in NRC programs and operations.

These investigations may involve one or more of the following violations of laws or regulations:

- theft, conversion, misappropriation, embezzlement, or misuse of Government funds or property;

- false claims or statements;

- forgery, falsification, or unauthorized destruction of Government records;

- bribery, extortion, or blackmail or attempted bribery or blackmail of, or by, an NRC employee;

- violation of employee standards of conduct, conflict of interest; and

- mismanagement, fraud, waste of Government funds, or abuse of authority relating to NRC s programs and operations.

2.3 How Is an OIG Investigation Initiated?

The first step in the course of an investigation is receipt of a complaint of wrongdoing or an allegation. Allegations are received primarily from NRC employees and licensees. However, Congress, other agencies, citizens, and public interest groups also refer matters to the OIG for investigation.

A major conduit for complaints is the OIG Hotline. Allegations of suspected wrongdoing are also referred by NRC managers and the audit program.

Once an allegation is received, an analysis is conducted to determine whether further action is warranted and, if so, what type of action is needed.

Guidelines used in this analysis are intended to ensure an effective evaluation of available resources and the commitment of those resources weighed against the impact of a successful investigation.

Guidelines for Investigation

The OIG considers the following factors in evaluating a complaint for investigation:

- plausibility that a violation of a statute or regulation under OIG jurisdiction has been committed;
- the presence of indications that the matter may significantly affect public health and safety;
- the effect of the alleged illegal or improper activity on NRC programs;
- whether the matter is of interest to senior NRC managers, one or more Congressional committees, the nuclear industry, or a public interest group;
- the level of the position of individuals against whom the allegations are made (wrongdoing by high-ranking agency officials are more damaging); and
- the deterrent effect knowledge of the investigation may have on others who may consider committing similar illegal or improper acts.

If an OIG investigation is not initiated in response to a complaint that requires additional action, other options available include referral of the complaint to an NRC operating division or referral to another law enforcement agency. In addition, allegations not susceptible to immediate action may be retained for use as the basis for broad programmatic inquiries or audits.

2.4 The Investigative Process

Because the goal of an investigation is to determine the truth or the falsity of matters alleged, the procedures employed in the investigative process focus on obtaining relevant facts so as to address all aspects of an allegation.

An investigative plan outlines the pertinent facts of an allegation and how to best obtain evidence that will either prove or disprove matters essential to the offense alleged.

Investigative activities include examination of documents, for example, files, contracts, vouchers, reports, and memoranda. Investigators also obtain information by interviewing witnesses, technical experts, and the subjects of investigations.

Information obtained is documented in records of interviews, by affidavits sworn under oath and in depositions, that is, with questions and answers given under oath, and transcribed by a court reporter.

After all relevant information is gathered, an investigative report is prepared. When there is evidence of criminal wrongdoing, the report is presented to the DOJ to consider for prosecution in Federal Court. If the evidence presented shows an administrative offense, the report will be sent to NRC managers for action.

2.5 Clearance Letters

The OIG policy regarding clearance letters has changed.

The current policy includes the definition, purpose, and procedure for issuance of a clearance letter.

A Clearance Letter is a document provided to an NRC employee in cases where an investigation is initiated in response to an allegation of misconduct by the employee, and the misconduct is not proven. Specifically, not proven is defined as a case in which an investigation is opened, the Department of Justice declines prosecution, and insufficient evidence is found to warrant referral to the agency for management action.

A clearance letter provides closure for the subject employee when OIG's investigation did not corroborate the alleged misconduct, and the case is closed. It is not an indication that immunity has been granted for any future investigation of the allegation. A clearance letter is provided to the employee alleged to have committed the misconduct at the discretion of the IG or the Assistant Inspector General for Investigations (AIGI) and is not a right.

A clearance letter is prepared for the signature of the AIGI and sent to the employee, with a concurrent copy to the Executive Director for Operations. The letter will contain a brief summary of the allegations and a statement to the effect that the allegations were investigated and were not substantiated.

2.6 OIG Access to Documents

Section 6 of the IG Act provides specific authority for the OIG to obtain the following documents from the agency: all records, reports, audits, reviews, recommendations; and other materials that relate to NRC programs and operations.

This section of the statute also authorizes the OIG to issue subpoenas to obtain documents from outside the Federal Government. Access to financial records is authorized under the provision of the Right to Financial Privacy Act.

2.7 OIG Access to Individuals

Government employees, including NRC personnel, mainly participate in OIG investigations by providing information to investigators in interviews.

The vast majority of employees voluntarily consent to interviews and fully cooperate by supplying information and documents within their control. Employees who do not may be ordered by a supervisor to appear for an interview with an OIG investigator. Employees who disobey such an order are subject to disciplinary action. Of course, false statements made in the course of an investigation would be subject to both criminal and administrative penalties.

2.8 Employee Rights and Warnings

OIG interviews are conducted in compliance with Constitutional rights. Before beginning an interview, OIG investigators identify themselves, present their credentials, and state the nature and purpose of the interview.

When applicable, a statement of the individual's alternatives with regard to remaining silent and obtaining legal counsel or union representation is stated directly and personally at each interview. These statements of rights are referred to as warnings.

There are four types of warnings, Miranda, Garrity, Kalkines, and Weingarten. Each is identified by the major Court case on the issue encompassed in the warning statement summarized as follows:

1. Miranda: Given when an individual is being interviewed concerning his or her own potentially criminal misconduct and is taken into custody or deprived of freedom in a significant way. This warning advises, under the Fifth and Sixth Amendments to the Constitution, that the individual is entitled to remain silent or otherwise not incriminate himself or herself and to the assistance of an attorney.

2. Garrity: Informs Federal employees and contractors who are subjects of investigations, that although they would normally be expected to answer questions regarding their official duties, refusal to answer on the ground that the answers may tend to incriminate them will not subject them to disciplinary action.
3. Kalkines: Advises that the possibility of criminal prosecution has been removed, usually by a declination to prosecute by the DOJ, and that the employee is required to answer questions relating to the performance of their official duties or be subject to disciplinary action.
4. Weingarten: In accordance with the Civil Service Reform Act of 1979, bargaining unit employees, who reasonably believe they may be subject to disciplinary action are entitled to union representation during OIG interviews.

OIG policy is to allow an interviewed employee, who is the subject of an investigation, to have an attorney present.

Employees who request legal representation or to union representation are allowed a reasonable amount of time to arrange this representation. Legal or other representation is at the expense of the individual employee.

The role of the legal or union representative is to provide counsel or advice, not to answer questions on behalf of the employee. Representatives are not permitted to question the OIG investigator or otherwise dominate or disrupt the interview or the investigation.

Employee Role in OIG Investigations

The success of the OIG mission to combat fraud, waste, and abuse depends on the cooperation of all NRC employees.

Responsible Reporting

Making allegations is a responsibility both in the obligation to report wrongdoing and to guard against inadvertent or abusive allegations.

WHY REPORT WRONGDOING?--Statistics demonstrate that the majority of allegations of wrongdoing reported to the OIG come from NRC employees. There are two clear bases for these statistics. First, NRC employees are in the best position to observe wrongdoing and have the technical expertise to assess wrongful actions. Second, under Federal law and Executive Order, all government employees are required to report violations of law and regulations.

HOW TO REPORT WRONGDOING--You should report any indications of fraud, waste, abuse of authority, mismanagement, or other wrongdoing directly to the OIG or through your supervisor.

Agency managers and supervisors are responsible for ensuring that allegations of wrongdoing they receive are promptly reported to the OIG. Report wrongdoing by --

contacting the OIG directly by telephone at 301-415-5930

using the OIG-HOTLINE at 1-800-233-3497, or

by writing to: U.S. Nuclear Regulatory Commission
Office of the Inspector General
Mail Stop T5-D28
Washington, DC 20555.

WHAT TO REPORT--The information you provide to the OIG should be sufficient for an investigator to evaluate or act on it. You should try to provide the following information if possible:

a brief, accurate statement of facts believed to provide evidence of wrongdoing;

names, addresses, and office locations of pertinent individuals and organizations;

dates when the suspected wrongdoing took place or is expected to occur;

how you became aware of the information;

memoranda, contracts, invoice numbers, or other related documents; and

names, addresses, office locations, and telephone numbers of others (including licensees) who may have information about the suspected wrongdoing.

Employees should not engage in any independent inquiry or investigation and should not discuss the matter with the persons suspected of wrongdoing. After the initial report, employees should provide the OIG with any new or additional information pertinent to the allegation.

HOW ARE YOU PROTECTED--You may make an allegation anonymously. The OIG phones do not have the caller identification feature. If you choose to identify yourself, under the IG Act, your name will not be revealed unless the IG determines that the disclosure is unavoidable. Reprisal and retaliation for reporting wrongdoing is prohibited by Federal law and regulations,

and no action may be taken against you for having complained or disclosed information to the OIG. However, individuals may be subject to disciplinary or criminal action for knowingly making a false complaint or providing false information.

2.9 The Investigative Products

Investigative Report

The investigative report relates pertinent facts of a case and describes available evidence to concisely address all relevant aspects of any allegation against individuals, including aspects of an allegation not substantiated. Investigative reports do not recommend disciplinary action against individual employees.

Investigative reports are given to officials and managers who have a need to know in order to properly determine whether administrative action is warranted. If an administrative action is deemed appropriate, managers consult with the Office of Human Resources and the Office of the General Counsel before initiating discipline. The agency is expected to advise the OIG within 90 days of receiving the investigative report as to what disciplinary or other action has been taken in response to investigative report findings.

Cover Letter

A cover letter is used with some investigative reports as more than a mere transmittal vehicle. When the OIG observes that an issue identified in the transmitted report is a recurring or systemic problem, or one reported in other OIG products, the cover letter is used to identify the problem to managers in this broader context.

Because OIG investigative reports do not contain recommendations, a cover letter is also used if significant findings indicate that a specific response to systemic problems is needed. The agency is expected to report managerial actions taken in response to the problems identified within 90 days.

Event Inquiry

The Event Inquiry is an investigative product documenting examination of events or agency actions that do not focus specifically on individual misconduct. These reports identify institutional weaknesses that led to or allowed a problem to occur. The agency is requested to advise the OIG of managerial initiatives taken to cure any institutional weaknesses identified in these reports.

Management Implications Report (MIR)

The Management Implications Report (MIR) was developed at the request of senior NRC officials to provide managers with a Root-Cause analysis as to how a particular problem developed. The objective of an MIR is to give managers sufficient information to facilitate correction of the problem and to avoid similar issues in the future.

Investigative Document Distribution

Investigative Reports are sensitive documents. Their distribution is restricted by the Privacy Act and is subject to Freedom of Information Act exemptions. Distribution is limited to those with a need to know for official purposes. Reports are sent to the Chairman's office with copies to the other Commissioners. In instances of exceptional congressional or public interest, the OIG may distribute a report to members of Congress.

Event Inquiries are generally released to the public upon request.

MIRs are intended for the use of agency managers but are published for agency use without limitations on distribution.

3 OIG AUDITS

3.1 What is an OIG Audit?

An audit is an independent, systematic assessment of a government organization, program, function, or activity.

3.2 What Types of Audits are There?

FINANCIAL--These audits include financial statement audits, as required by the Chief Financial Officers Act, and any other audits relating to NRC's financial operations. The first type of audit provides reasonable assurance about whether financial statements of an audited entity present fairly the financial position, results of operation, and cash flows in conformity with generally accepted accounting principles. The second type determines whether (1) financial information is presented in accordance with established or stated criteria, (2) the entity has adhered to specific financial compliance requirements, or (3) the entity's internal control structure over financial reporting or safeguarding assets is suitably designed and implemented to achieve objectives.

At NRC, these include audits under the Chief Financial Officers Act as well as audits of internal controls and contracts.

PERFORMANCE--These include both economy and efficiency audits and program audits. Economy and efficiency audits determine (1) whether the entity is acquiring, protecting, and using its resources (such as personnel, property, and space) economically and efficiently, (2) the causes of any inefficiencies or uneconomical practices, and (3) whether the entity has complied with laws and regulations on matters of economy and efficiency. Program audits determine (1) the extent to which desired results or benefits established by the legislation or other authorizing body are being achieved, (2) the effectiveness of the organization, programs, activities, or functions, and (3) whether the entity has complied with significant laws and regulations applicable to the program.

These audits are conducted on selected NRC administrative and program operations to evaluate the effectiveness and efficiency with which managerial responsibilities are carried out. They focus on whether management controls, practices, processes, and procedures are adequate and effective. Performance audits also include reviews of selected programs and activities to evaluate their overall effectiveness in achieving anticipated results.

3.3 What Does the OIG Audit?

In addition to audits resulting from statutory requirements, for example, the Federal Managers Financial Integrity Act, 31 U.S.C. § 3512, the Government Performance and Results Act of 1993, Public Law 103-62, and the Chief Financial Officers Act, 31 U.S.C. §§ 501-506 and 901-903,

OIG conducts systematic reviews throughout the organization. These focus on agency priorities and problem areas; as a result certain activities are examined with greater frequency than others.

OIG auditors typically examine--

- potential program vulnerabilities to fraud, waste, and abuse;
- management planning processes;
- cost effectiveness of programs and functions;
- the ability of the agency to protect and safeguard its resources; and
- financial statements and financially related activities, including contracting.

3.4 The Audit Process

Annual Audit Plan

The annual audit plan is a formal document outlining the audit workload and audit resources for the fiscal year. The plan reflects interests of NRC's senior managers, including the Commissioners, and the interests of the nuclear industry, the Congress, and others. The audit plan covers long-range (2-3 years) as well as current-year plans. The long-range section discusses major program areas of the agency that OIG plans to focus on. As these long-term strategies become more defined, they evolve into individual audits included in the section covering planned audits for the coming year. The annual plan is not a static document, but is a dynamic plan that is periodically reevaluated to ensure that OIG responds effectively to the needs of the Congress, the Commission, and the public.

Issue Area Monitors

To enhance oversight and understanding of the NRC's operations, Issue Area Monitors (IAMs), have been designated to cover the agency's major costs centers. IAM assignment areas are:

- the Reactor Program,
- Nuclear Materials Program,
- Nuclear Waste Programs,
- Resource Administration (except the Comptroller), and

Comptroller Office (including CFO audits), Policy and Direction Programs, and Special Technical programs.

Under the IAM program, senior audit staff are responsible for ongoing cognizance over their assigned areas. Paralleling the agency's basic mission areas, the IAM concept establishes in-house expertise and enables the OIG to be more fully informed and responsive to its statutory responsibilities.

How an Audit Is Conducted

An audit involves several steps, ranging from notification of the office to be audited to audit followup. The underlying goal of the audit process is to maintain an open channel of communication between the auditors and the managers to ensure that audit findings are accurately and fairly presented in the audit report.

The key elements in the process are defined as follows:

Annual Audit Plan: As described previously, an annual audit plan is developed and distributed to interested parties. It contains a listing of audits to be initiated during the year and the general objectives of each audit.

Audit Notification: A formal written notice is given to an office manager informing the manager of OIG's intent to begin an audit.

Entrance Conference: Through this discussion, the OIG advises agency officials of the purpose, objectives, and scope of the audit, and the general methodology OIG will follow.

Survey: A survey consists of the exploratory work, conducted before the detailed examination, to gather data for identifying audit objectives; documenting internal control systems, becoming familiar with the activities to be audited, and identifying areas of concern to management.

Review: The OIG comprehensively examines and analyzes selected areas of a program, activity, or function, using an audit program developed specifically to answer the audit objectives.

Exit Conference: The OIG meets with the agency's principal managers to present and discuss the results of the audit. This meeting provides agency managers an opportunity to confirm information, ask questions, and provide any necessary clarifying data.

Draft Report: The OIG gives the official draft document to the agency to obtain its written comments on the audit findings and recommendations; the agency normally has 30 days to respond to the draft.

Final Audit Report: The OIG sends the agency the final report that contains the agency's official written response to the draft.

Audit Followup and Closure: This process ensures that agency managers act on the OIG recommendations.

3.5 Audit Products

Audit Report

An audit report is the documentation of the objectives, survey, review, recommendations, and findings resulting from the objective assessment of a program, function, or activity.

Audits have a well-delineated process that allows for agency review of draft audit reports and required responses to recommendations. Along with this review and response is a formal audit follow-up and reporting of audit results in the OIG's Semiannual Report to the Congress.

Special Evaluation Report

A special evaluation report documents the results of short-term, limited assessments. An evaluation is a mechanism the OIG uses to provide an initial, quick response to a question or issue and to work collaboratively with agency managers to determine whether an in-depth independent audit should be planned.

Audit Report Distribution

OIG issues its final audit reports and special evaluations to the Commission and to the Congress. These final reports are available to the public.

4 REGULATORY COMMENTARY

4.1 What Is a Regulatory Commentary?

Regulatory Commentary is the review of existing and proposed legislation, regulations, and policies so as to assist the agency in preventing and detecting fraud, waste, and abuse in programs and operations.

Regulatory Commentaries document OIG's objective analysis of vulnerabilities created within agency programs and operations by proposed or existing statutes, regulations, or policies. Commentaries cite the IG Act as authority for the review, state the specific law, regulation or policy examined, the pertinent background information considered, and identify OIG concerns, observations, and objections.

4.2 How Does the OIG Prepare a Regulatory Commentary?

OIG reviews proposed legislation, regulations, directives, and policy initiatives that affect NRC's programs and offices. Significant concerns are documented in a regulatory commentary and given to the agency for consideration. The statutory intent of the regulatory commentary is to prospectively identify and assist in preventing problems, therefore, formal replies are not always requested by the OIG. However, significant observations regarding action or inaction by the agency are reported in the OIG Semiannual Report to Congress.

Regulatory Commentary Distribution

Regulatory Commentaries are normally sent to the agency without limitations on distribution or release to the public.

5 THE SEMIANNUAL REPORT TO CONGRESS

5.1 What is the Semiannual Report?

In accordance with requirements of the IG Act, the semiannual report is a document prepared by each IG that summarizes the activities of that OIG during the six-month periods ending March 31 and September 30. The report is submitted to the head of the agency, the Chairman in the case of the NRC, no later than April 30 and October 31 of each year. The agency may comment on the report, but may not change it. Within 30 days of receipt, the Chairman submits agency remarks together with the IG's report to Congress.

Reporting Requirements for the Semiannual Report

The reporting requirements for the IG's Semiannual Report are contained in Section 5 of the IG Act. Additional guidance on the content of the report has been provided by the President's Council on Integrity and Efficiency and the OMB. Items normally included in the report are as follows:

1. Description of significant problems, abuses, and deficiencies relating to the administration of the NRC's programs and operation.
2. Audit recommendations for corrective action.
3. Significant audit recommendations described in previous reports for which the agency has not completed corrective action.
4. Matters referred to prosecutive authorities and the results of those prosecutions.
5. Selected Regulatory Commentary summaries and agency response.
6. Statistical tables demonstrating the dollar results of the OIG's internal program audits and contract audits performed during the reporting period.

The report may also include special feature articles concerning relevant topics.

5.2 Semiannual Report Distribution

The Semiannual Report is widely distributed throughout government and to the public.

6 FREEDOM OF INFORMATION ACT AND PRIVACY ACT

6.1 Freedom of Information Act and Privacy Act

The Office of the Inspector General at the NRC exercises independent authority to release or withhold documents requested under the Freedom of Information Act, 5 U.S.C. § 552b and Privacy Act, 5 U.S.C. § 552a.

These statutes provide the OIG with denial authority under exemptions that protect criminal investigative and privacy interests.

The AIGI acts as the initial denial authority for OIG documents, and the only administrative appeal is to the IG.

6.2 Documentation Dissemination

Unlike the agency, OIG documents are not placed in the PDR.

APPENDIX

Excerpts from the
INSPECTOR GENERAL ACT OF 1978
(Public Law 95-452, October 12, 1978)

As amended by the

INSPECTOR GENERAL ACT AMENDMENTS OF 1988
(Public Law 100-504, October 18, 1988)

§ 2. Purpose and establishment of Offices of Inspector General; departments and agencies involved

In order to create independent and objectives units--

(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in each of such establishments an office of Inspector General.

§ 3. Appointment of Inspector General; supervision; removal; political activities; appointment of Assistant Inspector General for Auditing and Assistant Inspector General for Investigations

(a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head

shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of Title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service--

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

§ 4. Duties and responsibilities; report of criminal violations to Attorney General

(a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established--

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b)(1) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall--

(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(B) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 11(2), Offices of Inspector General of designated Federal entities defined under section 8F(a)(2), and any audit office established within a Federal entity defined under section 8F(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or the Office of Inspector

General of each establishment defined under section 11(2), or the Office of Inspector General of each designated Federal entity defined under section 8F(a)(2).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(As amended Pub.L. 100-504, Title I § 109, Oct. 18, 1988, 102 Stat. 2529)

§ 5. Semiannual reports; transmittal to Congress; availability to public; immediate report on serious or flagrant problems; disclosure of information; definitions.

(a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to--

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period;

(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit report, where applicable, the total dollar

value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

(7) a summary of each particularly significant report;

(8) statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports--

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including--

(i) the dollar value of disallowed costs; and

(ii) the dollar value of costs not disallowed; and

(D) for which no management decision has been made by the end of the reporting period;

(9) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports--

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including--

(i) the dollar value of recommendations that were agreed to by management; and

(ii) the dollar value of recommendations that were not agreed to by management; and

(D) for which no management decision has been made by the end of the reporting period;

(10) a summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

(11) a description and explanation of the reasons for any significant revised management decision made during the reporting period; and

(12) information concerning any significant management decision with which the Inspector General is in disagreement.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing--

(1) any comments such head determines appropriate;

(2) statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports--

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including--

(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

(ii) the dollar value of disallowed costs that were written off by management; and

(D) for which no final action has been taken by the end of the reporting period;

(3) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports--

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including--

(i) the dollar value of recommendations that were actually completed; and

(ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

(D) for which no final action has been taken by the end of the reporting period; and

(4) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing--

(A) a list of such audit reports and the date each such report was issued;

(B) the dollar value of disallowed costs for each report;

(C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

(D) an explanation of the reasons final action has not been taken with respect to each such audit report, except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.

(c) Within 60 days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost. Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is--

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

(3) Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986 [26 U.S.C.A. § 6103(f)], nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.

(f) As used in this section--

(1) the term *questioned cost* means a cost that is questioned by the Office because of--

(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

(2) the term *unsupported cost* means a cost that is questioned by the Office because the

Office found that, at the time of the audit, such cost is not supported by adequate documentation;

(3) the term *disallowed cost* means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

(4) the term *recommendation that funds be put to better use* means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including--

(A) reductions in outlays;

(B) deobligation of funds from programs or operations;

(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

(F) any other savings which are specifically identified.

(5) the term *management decision* means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

(6) the term *final action* means--

(A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and

(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.

§ 6. Authority of Inspector General; information and assistance from Federal agencies; unreasonable refusal; office space and equipment

(a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized--

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act.

(7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of Title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(8) to obtain services as authorized by section 3109 of Title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of Title 5, United States Code; and

(9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) For purposes of the provisions of Title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the appointing authority for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General.

§ 7. Complaints by employees, disclosure of identity; reprisals

(a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the

Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

§ 8B. Special provisions concerning the Nuclear Regulatory Commission

(a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission.

(b) Notwithstanding sections 6(a)(7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

(Added Pub.L. 100-504, Title I, § 102(f), Oct. 18, 1988, 102 Stat. 2517.)

OIG APPROPRIATIONS

31 U.S.C. § 1105 - Budget Contents and Submission to Congress

(a) ...the President shall submit a budget of the United States Government for the following fiscal year. ...The President shall include in each budget the following: ...(25) a separate appropriation account for appropriations for each Office of Inspector General...

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